

THE  
JUSTIFICATION  
OF THE  
ASSERTION  
OF THE  
BURGOMASTERS and SENATE  
OF THE  
City of AMSTERDAM,  
CONCERNING

The Illegality of Monsieur *BENTINGH*,  
the present Earl of *Portland*, &c. his Sitting in the  
Assembly of the Lords States of *Holland* and *West-  
Friesland*: Tending withal to the Refutation of what  
has been alledged against them by the Lords of  
the *Ridderschap* and Nobles, together with the  
Lords and Deputies of the respective Cities, upon  
the 20th of *January* last; and the Deduction there-  
upon ensuing.

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Licensed, February 22. 16<sup>59</sup><sub>72</sub>.

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## A Justification of the Assertion of the Burgomasters and Senate of the Ci- ty of *Amsterdam*, &c.

**S**O soon as the Burgomasters and Senate of the City of *Amsterdam* had notice that Monsieur *Bentingham*, at present Earl of *Portland*, (who since his Honour's departure out of *Holland*, has been Naturaliz'd in *England*, and is there become a Member of the Upper-house of Parliament, and consequently ty'd to the Interest of that Kingdom by divers Oaths) did resolve to appear and take Session in the Assembly of the Lords States of *Holland* and *West-Friesland*, the aforesaid Burgomasters, meerly in pursuance of their Oaths and Duty, (having the Honour of being a fellow-Member of the said honourable Assembly) as much as in them lay, to preserve the ancient Foundations, and Fundamental Laws of the Government of this Province, and without any other the least further regard or aim, or without having any personal quarrel at all to the said Earl, did judg it their Duty in the utmost degree, by all due means, if possible, to prevent and divert the said Earl from that his said purpose and intent; that so they might have cut off all occasion of difference that might thence arise. To which end, the said Burgomasters and Senate did cause the Lords their Deputies to speak concerning that Affair with the Lord Pensionary of *Holland* and *West-Friesland*, on the 10th of *January* last past, earnestly desiring his Lordship, that he would

be pleased so to direct things, that the aforesaid Earl, being now become quite of another State and Condition than before, as having assum'd other Qualities, which were in their own nature, directly inconsistent with his being a Member of this Government ; as also because he being *in the Oath, Service, and Pay of another*, (to wit, of the Sovereignty of *England*) was most expressly secluded from the said Assembly, by that known Resolution of the 7th of *March* 1586. would be pleased not to appear there. But the Burgomasters and Council having had the misfortune not to obtain any thing by those their endeavours, thought it their indispensable Duty to attempt the same in their Lordships Assembly ; for which their Lordships did present to the said Assembly their Resolution of the 12th of *January* (upon the 20th *ditto*) containing the Reasons for which the said Burgomasters and Senate did conceive that the said Earl of *P.* could not be admitted to sit in the said Assembly of States. And they must needs say, That they had expected not only that all the Members would have concurred with them therein, but also have approved and applauded what they had done, as proceeding from a true Zeal for maintaining of the fundamental Laws of this Province ; not in the least, imagining that the Members could have departed so far from the old Foundations, and laudable Customs that have always been used in this Commonwealth, as to declare the said Earl of *P.* (betwixt whom, and all other *English* Lords, the said Burgomasters and Senate cannot imagine any real distinction at present) to be a legitimate Member of their Assembly ; and that the Members, upon the 7th instant, when this thing was resum'd, and consequently when we ought to suppose that they had understood the Sentiments and received the

the Instructions of the Lords their Principals upon this Subject, would have persisted in their former Sense.

And as little were the said Burgomasters and Council able to conceive that this their sincere and faithful intent, aiming only at the Preservation of the Sovereignty, Liberties, and Freedoms of the aforesaid Assembly, could have been liable to so many and so great misinterpretations, as are found in the Deduction of the Lords of the *Ridderschap* and Nobles, to whom the Lords deputed from the other Cities have since join'd themselves. All which notwithstanding, the said Burgomasters and Council do still adhere unchangeably to that their so good and honest purpose; being very well assured that when the Members shall come seriously to weigh and examine the matter, They will approve their Assertion; and that Posterity will also do the same; It being past all contradiction, that the Resolution of the year 1586. formed unanimously as a Rule and Establishment of Government for this Country, does absolutely declare, and in most express terms ordain, *That no Man may appear in the Assembly of Holland and West-Friesland, who is in Oath, Pay, or Salary of any but those by whom he is deputed.*

And besides, 'tis not only contrary to sound Reason, but also without all precedent, and consequently contrary to the ancient Usages and Customs of this Land, that any one, by Naturalization establish'd in another Countrey, and thereby become a Subject of another Sovereign, should also be a Constituant Part of the Sovereignty of this Province.

The said Burgomasters and Council did also conceive that they might, in all Equity, have expected both from the said Earl of P. from the Lords of the *Ridderschap* and Nobles, as also from the Lords De-

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puties of the other Cities, That they seeing and weighing those so peremptory Considerations, would at least have so managed that Affair, that this every way so delicate, so tender, and yet so weighty a Point, which is of so great consequence for the future, should not have troubled the weighty Deliberations of their Lordships in this present Conjunction of Affairs.

And the said Burgomasters and Council had the more reason (as they humbly conceive) to wish and hope for this; because they could not see that the Lords of the *Ridderschap* and Nobles, had (in their Considerations alledged the 20th of *January* last, or in the ensuing Deduction published for the Justification of the Right of the said Earl of *P.* or in Opposition to the Conduct of the said Burgomasters and Council) advanced any thing of Moment; either in favour of the aforesaid Earl, or against the Conduct of the said Burgomasters and Council; because they do not object any thing against the Substance of the said Fundamental Law and Resolution; but only alledge, *First*, (as to the Law) That it is neither applicable to the Lords of the *Ridderschap* and Nobles in General, nor to the Person of the said Earl of *P.* in Particular; and that the said Law was never received, nor put in Practice; And *Secondly*, (As to the procedure of the said Burgomasters and Council) they alledge nothing at all, but certain Offensive, and general Expressions, built upon mistaken Grounds.

For, *First*; As to the Law and Resolution it self; And particularly, as to its applicableness to the Lords of the *Ridderschap* and Nobles in General, upon pretence that the Lords of the *Ridderschap* do appear  
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in the Assembly in their own Names, and that the Law refers only to Ministers: The said Burgomasters and Council do suppose it past all Contradiction, That tho' 'tis true that (as to the Order of the *Ridderschap* and Nobles) there be required in order to any ones appearing in the Assembly, that he personally be of that Order; yet nevertheless (to the best of their Knowledge) no one can in his own Name only, because he is of that Order, appear in the Assembly of *Holland* and *West-Friesland*, among the number of the Nobles, unless he be expressly deputed to that purpose. So that the Lords of the *Ridderschap*, who do appear in the Assembly, must be look'd upon as sent thither, as well as any of the other Members or their Deputies. Besides also, it is expressly said, in the Resolution of the year 1581. (which in the Allegation of the Lords of the *Ridderschap*, is called a Fundamental Law) That no Man shall appear in the Assembly, but such as shall be deputed by the Nobles from their Colledge, and by the Cities from their Council, or *Vroedschap*.

And moreover, it will not be found that the aforesaid fundamental Law relates only to Ministers, and to such of the Respective Members of the Assembly as are in Offices; Partly, because the Extension of the Terms in which it is couched is so general, that it may and must be applied to both the one and the other; For it speaks indifferently of all that should appear in the Assembly of the States, with that exclusive Word of *no Man*; By which all, and every one is included, who is in Oath, Service, or Pay of another, as appears by the said Resolution it self; And partly, because it does not at all follow, because there were Committees appointed, and Resolutions taken, in the years 1629 and 1638, which did particularly



ly concern the Ministers appearing in the Assembly; that therefore those Resolutions and Committees did (as the Lords of the *Ridderschap* and Nobles, and the other Members, without any reason pretend) dispense with any Obligation of the other Members of the Assembly of *Holland* and *West-Friesland*, to which those other Members were previously, by the Law of the Land, obliged, and did; and ought at all times so to remain; Forasmuch as *nothing* was concluded in those Resolutions that concerned them; nor was there any Alteration made, or Dispensation agreed upon with respect to them; Especially, seeing that Obligation was intended as a *Rule and Fundamental Law of State*; which can not be departed from but by another express Law, made with the general Consent of *all the Members*.

Nor can the said Burgomasters and Senate understand how it can make any Alteration in the express Text of that Resolution, or any thing at all against it, That the aforesaid Earl of *P.* had formerly appeared in the Assembly of *Holland*, in and among the Order of the *Ridderschap*; Seeing the aforesaid Resolution does not at all speak of any Oath, Service, or Pay, that any one should be under at the first time of his appearing in the Assembly of States; but that the said Resolution establish'd, in *most general and unlimited Terms*, a Prohibition of all succeeding Acts of Appearance in the Assembly of *Holland* and *West-Friesland*. For these are the Words therein used, *That from thenceforward, no Man shall appear in the aforesaid Assembly, who is, &c.* And that consequently, every such Person, as oft as he does repeat that Act of Appearance in that Assembly, commits a manifest Transgression against the express Words of the Resolution, which does not forbid



forbid that Fact or Action, for once only, but for ever, and at all times from that time forward. The reason of the Prohibition also abides permanently the same, for every time, and upon all occasions. For in all Cases where there is required, to the Exercise of any Function, a certain personal and particular Qualification, there natural reason teaches every one, that so soon as that Qualification is wanting or lost, together with it, is also lost the Exercise of that Right, which was built upon the Foundation of that Qualification. And this must needs be of more force in the present Case of the Earl of P, because his Lordship took those Oaths upon no other account, but that he might thereby acquire the Right of Naturalization in another Sovereignty, out of this Province. Wherefore the said Earl of P is not only to be esteemed, for the future, as a Native, Inhabitant, and Subject of another Sovereignty, but as admitted also into a part of that Government. By which his Naturalization and Settlement of himself elsewhere out of this Province, He must needs be considered as having freely and voluntarily quitted and abdicated that Settlement which he had formerly acquired here; It being contrary to sound Reason, and impossible for one and the same Person to be at one and the same time in two several places; to have one and the same inclination, and exercise one and the same Affection, for the interest of both. And it is plain that this has also been the sense of the English Nation formerly. For we read in *Cambden, Ann. 1596. printed An. 1633. fol. 679.* That *Thomas Earl of Arundel*, who had formerly been a Member of the Upper-house, but having singularized himself by singular Services in the Empire, and in consideration of the same being dignified, by the Emperor, with the Title of *Prince*

of the Empire, &c. upon his return into *England*, when he would have taken his place, as formerly, in Parliament, he was refused; and it was understood that he could be no Member of the *English* Parliament, so long as he bore that Title, and had any dependance upon the Empire. The same was also resolved in the Case of one *Nicholas Clifford*, and *Anthony Shirley*, *English* Gentlemen, Anno 1594. As appears by the same Historian, Fol. 630. And accordingly, even this State it self did in the year 1688. understand and maintain, that the Reverend Dr. *Gilbert Burnet* had withdrawn himself from the Sovereignty and Authority of *England* and *Scotland*, when he became Naturaliz'd, and had taken the Oaths of a Burgess here.

But the said Burgomasters and Senate will not press this Argument from natural Reason any further; because the Lords of the *Ridderschap* and Nobles; and Lords Deputies of the other Members, have granted in effect, that this Argument of the said Burgomasters and Senate might be indeed an inducement for the making of a new Law for the future; and have insisted only that it ought not to serve for a Rule, upon which to regulate what is present or past. For the inconsistency, by the said Burgomasters and Senate asserted, is thereby tacitly confessed beyond all Contradiction; And (there being an express previous Law and Resolution found in the Case) the said Burgomasters and *Vroedschap* alledged the said incompatibility and inconsistency, only in order to the further Confirmation and the more careful and exact observance of the said Law, which had already been made, and unanimously establish'd, in such strict and precise Terms. Besides, the said Burgomasters and *Vroedschap* do humbly conceive, that there ought

ought to be great difference made betwixt things that are incompatible and contradictory, (as is this, that one and the same Person should, at the same time, be considered as a Naturaliz'd Inhabitant in two Countrys, personally Subject to two Sovereigns, under Oath to both, and respectively partaking in the Administration of the Government in both Places) and betwixt things which, in time to come, may be thought likely to breed some Inconveniences: The first being things in their own nature *impossible*, and consequently which do so *forbid themselves*, that there needed no new Law to be made to prohibite them: And the second only of such a Nature, that Orders may be made concerning them, if there have been hitherto none; which in this Case, however, cannot be said; for here is a Law. And as to what has been said on the behalf of the Lords of the *Ridderschap* and Nobles, together with the Deputies of the other Cities, That the aforesaid so Fundamental Law has been *eo ipso* receded from, because that in divers Cases the contrary has been practis'd; the said Burgomasters and *Vreedschap* cannot apprehend, that the force of so Fundamental a Law should or could ever have been destroyed by any Abuses committed against it; Especially, if done without the Knowledg of the integral Members of the Sovereignty; and least of all in this Case, because it appears from what passed (with respect to the Lords Deputies of the States General) in the year 1663. (where the Lords the States of *Holland* and *West-Friesland* were so extraordinarily concern'd, at that time, for the observance of that Fundamental Law, and for the intrinsic Reason thereof) that their Lordships were of Opinion that the same ought to

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have been practised by other Provinces, if there respective Members in the States General had desired to have been admitted to the Management of the Affairs of the State; which was the Reason why the said Burgomasters and Senate did alledge that aforesaid Resolution of their Lordships in their Proposition or Resolution. Wherefore the said Burgomasters and *Vroedschap* will say no more, in Refutation of the Considerations advanced from those Examples that may be found of Practices contrary to the aforesaid Resolutions of the States of *Holland*; The said Examples being altogether Foreign to this Case; in which was no Treaty or Discourse concerning what our Allies may have thought fit, and practised; but concerning what was the Will and Intention of the Lords States of *Holland* and *West-Friesland* in the Case. Besides, if all those Examples should be narrowly Discusst, they might perhaps all of them be found nothing to the purpose, and vanish. But however, if yet there should seem to have been any Mitigation or Alteration, in and about the aforesaid Resolution of the year 1586. because the Purgation Oath had never been taken, as also because an Oath of Fealty and Homage may have been taken by divers Members of the Assembly of *Holland* and *West-Friesland*; the said Burgomasters and *Vroedschap*, do in the first place, previously offer to the serious Consideration of the Members, whether it be not in its own Nature most evident, That the insinuated Mitigation and Alteration cannot be extended and stretched out further than to those special and particular Cases; and consequently, Whether it would not lay the most dangerous Foundation imaginable, from a connivance in a particular Case (and that also  
of

of very small importance) to infer an absolute and total overturning of a Law of State, establish'd by unanimous Consent for the Settlement of the Government? Yea; Whether it would not be the greatest Absurdity in the World, from the omission of the Purgation-Oath, or the conniving at the taking of an Oath of Fealty and Homage, to make inferences, and apply them to a quite other Case; and that so extraordinary a Case as this; wherein an Inhabitant of this State was, to all intents and purposes, gone over to another Sovereignty; by such a Naturalization and Obligation, as if he had been born under that Sovereignty, and had dwelt under it all the days of his life; yea, and whereby he was admitted into a share of the Administration of the Government it self, as is the Case of the present Earl of *P...* Whereas that Purgation Oath contained nothing explicitly, but what the ordinary Oath does, in effect, and for the substance of it, implicitly contain; which ordinary Oath does oblige the Members to the Maintenance and Defence of *all the Laws and Privileges, with the ancient and laudable Customs of the Land;* and so by consequence to the fulfilling of the inward Contents of the aforesaid Resolution. And besides, no man can be ignorant that the Oath of Fealty and Homage obliges not any of the Feudatories to do any the least thing against their own Lawful Sovereign; and consequently, That there can be no Case conceived wherein that Oath of Fealty and Homage can be contrary to, or inconsistent with the Oath to the first Sovereign. And thus the Lords States of *Holland*, by their further Resolution of the year 1663. already mentioned more at large, have in effect understood the Oath of Fealty and Homage, with that mitigation,

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All these things considered, The said Burgomasters and *Vroedschap* could not but, with a singular and sensible grief, behold that the Lords of the *Ridderschap* and Nobles, together with the Lords Deputies of the other Cities, have been pleased so to interpret this their so sincere and honest intencion and conduct, (tending to nothing but the welfare and maintenance of the establish'd Order and Form of Government) as if the said Burgomasters and Senate did seek to make Innovations and Changes; and that because others could not consent to their Innovation and Change, they would declare their particular sense as right; and so arrogate to themselves a privative Authority, of over-ruling the Legal Deliberations of the State: Forasmuch as it's most evident, from what has been said, that the said Burgomasters and Senate do require, in this Matter, nothing but what was due and necessary, according to the Ancient and Primitive Fundamental Laws of the Government: And that, on the contrary, the Change arising in this matter, being occasioned by the Change which the said Earl of P— had made in his own Personal Qualifications, ought not to be look'd upon as an Innovation and Change proceeding from the said Burgomasters and *Vroedschap*; but that it was an ancient and incontestible Right, establish'd by the Fundamental Law of the State, to the Maintenance and Defence of which the said Earl of P— had formerly (among others) obliged himself by solemn Oath, the first time that ever he appeared in the Assembly of *Holland and West-Friesland*; and consequently, that their demanding and insisting upon the execution of so necessary and equitable a Law and Resolution, could



could not be an assuming of any privative Authority to themselves of over-ruling the Legality of the Assembly of *Holland and West-Friesland*, or of dissolving the Sovereignty thereof, (as is, without all reason, suggested); but, on the contrary, that it was the right and true way to preserve the Sovereignty, Rights, and Privileges, of the Assembly of the Lords the States of *Holland and West-Friesland*, upon its ancient Basis and Foundation, without any Charge in the Form of the Government, so far as it lay in their Lordships Power. And the said Burgomasters and *Vroedschap*, seeing and perceiving that at the very time when the Proposition was made in their Name concerning that admission, and while the same was in debate, the said Earl of P—— was not only admitted into the Assembly, but even particularly at the time of Voting was considered as a Member of the Lords of the *Ridderschap* and Nobles, and consequently of the State it self; their Lordships could not in Honour and Conscience, according to their Offices, upon that very score, avoid the disavowing thereof; with and by a solemn Protest; and afterwards (because the same Conduct was continued, and that the respective Members had declared the said Earl of P—— to be a lawful Member, and acceptable to them) to cause their Deputies to depart out of the Assembly; forasmuch as they judge themselves obliged in the most significant manner to testify, That they had no hand nor part at all in it.

And, to conclude, the said Burgomasters and *Vroedschap* can also as little conceive, to what purpose that large and ample Expatiation tends, which the Lords

of



of the *Ridderschap* and Nobles, together with the Lords Deputies of the other respective Cities, are pleased at every turn to make use of, concerning the Glorious Expedition of His Royal Majesty of Great Britain, the Interest of the State in the same, and that such as had assisted His Majesty therein ought to be generously recompenced, and the like; forasmuch as the said Burgomasters and *Vroedschap* have never made the least doubt thereof, nor had the least shadow of difference with the other Members upon that account; Nay, the said Burgomasters and *Vroedschap* will, in that matter, give place to none of the Members, in point of Good-will, Complaisance, Zeal, and Heartiness towards the furtherance and propagation of so good a Work, as is the owning and recompencing most generously of all Heroick Actions, and most especially the cultivating of a good Unity and Harmony at home and abroad, the establishing of the true Christian Religion every where, the procuring of the Common Peace of *Christendom*, and preservation of the dear-bought Liberty and Prosperity of this State in particular; whereunto the said Burgomasters and *Vroedschap* have been always to the utmost well inclined, and still are ready to contribute and sacrifice all that lies in their Power; nor can it be unknown what they have formerly contributed thereunto. Yet the said Burgomasters and *Vroedschap* cannot imagine that these things should be alledged as Arguments to introduce any one into the Assembly of the Lords the States of *Holland* and *West-Friesland*, who otherwise had no right thereunto.

To all which yet the said Burgomasters and *Vroedschap* must add, That nothing can seem more strange to them than

than that the Lords of the *Ridderschap*, and the Lords Deputies of the respective Cities, do palliate this Session of the Earl of P— with the Name of *Continuation of his former Rights and Prerogatives*; whereas it's most evident that the said Earl never had Session in the said Assembly since his being naturaliz'd in *England*, and become a Member of the Parliament there; and that, consequently, it must be said, That things would have remain'd *in statu quo*, if his Lordship had never appeared in the said Assembly; and, on the contrary, That a Change has been made, upon his Honour's taking Session there. But what is yet more strange in this matter, is, That his Lordship did this at a time when the Members had taken Extracts of the Resolution of the said Burgomasters and *Vroedschap*, concerning the Admission of the aforesaid Earl, in order to impart the same to the Lords their Principals; and whilst, consequently, he must needs know that the Assembly were yet in deliberation concerning the same.

But, above all things, the said Burgomasters and *Vroedschap* can least of all conceive how (whilst this Deliberation was yet depending) the interim, or provisional Judgment, could be past against the Burgomasters and *Vroedschap* of *Amsterdam*; seeing the express letter of the Resolution was in their favour.

All which does give the more peace and satisfaction to the said Burgomasters and *Vroedschap*, seeing that in this matter they do only defend the old Form and Foundation of the Government; and that they have not given the least occasion of distrust or disunion; nor can they be esteemed guilty of any Mischiefs that may ensue unto the State upon this occasion.

On the contrary, they leave all Inconveniencies and Disasters, that in Process of time may thence arise, to be answer'd for by those that have consented to his Admission; and have no better maintain'd so fundamental a Law, unanimously Establish'd, together with the Ancient and Laudable Custom of the Land: The said Burgomasters and *Vroedschap* declaring the Admission or Session of the said Earl of P— to be altogether unlawful; and without Example; and testifying to the present Age, and to Posterity, that they had no hand, nor part in the same.

*Translated out of Dutch, from the Copy Printed in Amsterdam, by Aart. Dirx Oolfsaen, Bookseller upon the Dam.*

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*Extract out of the Resolutions of the Lords States of Holland and West-Friesland, taken in their Lords Ships Assembly, March 7. 1586.*

**T**HE States of Holland have unanimously declared and resolved, That from this time forwards, it shall not be lawful for any one to appear in the Assembly of the aforesaid States, who is under Oath, Pay, or Salary of any other than those on whose behalf he is sent to the Assembly; concerning which, every one that enters into the said Assembly, shall be obliged to purge himself by Oath.

F I N I S .

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• ADVERTISEMENT.

**A**N Account of the Passages in the Assembly of the States of *Holland* and *West-Friesland*; Concerning the Earl of *Portland's* Exclusion from, or Admission into that Assembly. Translated out of *Dutch*, from the Printed Extracts out of the Resolutions of the Assembly of the States of *Holland* and *West-Friesland*. Printed for *Richard Baldwin* in the *Old-Bayly*, *London*. H

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